CHAPTER I

INTRODUCTION

A. Background

In 2009, a history of Indonesian democracy has been made. The Constituional Court has been decision Number 47-81/PHPU.A/VII/2009 on legislative disputes which recognized noken vote model in papua. Recognition of this model is actually contrary to the principle of election that is direct election. Many people questioned the decision of the Constitutional Court, because the *Noken* vote model is vulnerable to fraud if it is not monitored properly. The head of *adat* had a very important in the electoral process. Sometimes there is a dispute related to the acquisition of the election results by the *noken* vote model which brought to the Constitutional Court. In fact, in the light of people right, the Constitutional Court legalized the *noken* vote model[1].

As mentioned by Daniel Pahabol[2], "Nokens is an important part of the implementation of the elections, especially for the people of Papua who come from inland areas of Papua"[3]. *Noken* vote model has become a tradition in the elections in Papua, especially in inland or mountain of Papua and is considered as important

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[1] See Decision of Mahkamah Konstitusi No. 47/81 / PHPU.A / VII / 2009 on dispute settlement of the result of DPD RI Legislation Election in Yahukimo, Papua

[2] The Head of Agency Organization and Utilization Apparatus (Orpah),

[3] See Lintas nasional: *Ini perbedaan pemilu di papua dan aceh*, available on http://www.lintasnasional.com/2016/04/05/ini-perbedaan-pemilu-di-papua-dan-aceh/, access on October 17, 2016. At 01.30 a.m

for the people of Papua. In fact, *noken* vote model is a part of political interest of politician to support them in the election system. The Constitutional Court decision related to *noken* vote model seem to be interpreted as a custom of the people of Papua. The Papuans have also considered *noken* vote model as a solution.

Historically noken system had been used in the Legislative and Presidential elections in Indonesia since 1971. This is due to the people in the mountains were still large of illiteracy, color blindness, and problem of geographical conditions. As we know at the time, there were only two regions in the central mountain that were Nabire and Jayawijaya[4].

Noken vote model is initially as replacement ballot boxes that are not distributed in the inland areas of Papua. So it cannot be denied that election model is not solely on the willingness of the *adat* peoples of Papua but *noken* vote model also the response shortage of the electoral process in Papua, especially in inland areas because of its undistributed ballot boxes

The existence of law in Indonesia is very closely related to the society. Without the society, the law is only an inanimate object because it is not able to be realized in the society. Therefore, the law should provide protection for human dignity, including the protection of basic rights for everyone and everyone is equal

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[4] See Aliansi Demokrasi Papua (Aldp): *Noken Jati diri dan Identitas Orang Papua*, available on http://www.aldp-papua.com/noken-jati-diri-dan-identitas-orang-papua/, access on October 19,2016 at 17.05 pm

before the law. The basic rights are parts of the constitutional right of people which are essentially possessed by every citizen of Indonesia, wherever they are either in cities or in rural areas though[5].

The general election is one of the characteristics of a democracy in which sovereignty is in the people. Since 2004 Indonesia has been implementing direct elections, general, free, secret, honest, and fair once every 5 years[6]. The general election is a form of sovereignty of the people. It associates itself with the election purpose to elect the President and Vice President, head of the region, representatives and regional representatives. Under article 1, paragraph 2 of the 1945 Constitution states that "sovereignty belongs to the people and carried out under the Constitution. The meaning of "sovereignty in the hands of the people" is that people have rights, obligations and responsibilities of democracy in choosing the leaders who will serve the whole society[7]. It is a fact that democracy is the best system and principle in constitutional system. A report on the study sponsored by UNESCO, in the early 1950s said that no response rejects democracy as the foundation and the most ideal system[8].

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[5] Ahmad Zazili, "Pengakuan Negara terhadap Hak-Hak Politik (Right to Vote) Masyarakat Adat dalam Pelaksanaan Pemilihan Umum (Studi Putusan Mahkamah Konstitusi No.47-81/Phpu.A-Vii/2009)", *Jurnal Konstitusi*, Volume 2, Nomor 1, (March 2012), page. 4

[6] See Indonesian 1945 Constitution, article 22 E

[7] Nanik Prasetyoningsih, "Makna Partisipasi Politik Masyarakat dalam Pemilihan Umum", *Jurnal Konstitusi PK2P-FH UMY*, Volume 3, Nomor 2, November 2010, page. 19

[8] Ni'Matul Huda, 2012, *Hukum Tata Negara Indonesia*, Edisi Revisi 6, Jakarta, Rajawali Pers, page. 260

Democracy in Indonesia is always evolving, as evidenced by the state's recognition of the *noken* vote model which is the political rights of the *adat* people of Papua. But in practice, it needs cooperation among the Election Commission, the Election Supervisory Committee and *adat* peoples. That is the realization of the ideal of local democracy. As already described, the existence of *noken* vote model doesn't arise purely from the will of *adat* peoples of Papua, but the model of the election appears in because of the delay in the distribution of ballot boxes in inland and *noken* vote model have emerged since 1971[9]. Therefore, the General Election Commission of Papua province was trying to do socialization of direct election system with *one man one vote* principle and then KPU Papua would abolish the election *noken* vote model in the selection of election 2017[10].

Based on the explanation of the background, *noken* vote model has brought about problems in its implementation as it is considered contrary to principles of the election that are direct, secret, and honest and fair. But, on the other side, the election model has been recognized by the state on the basis of the constitutional rights of *adat* peoples and has become jurisprudence. In other words, there is an exception of the election system in Indonesia to the people of Papua with the recognition of *noken* vote model. By the recognition of noken vote model, does it

[9] Aliansi Demokrasi Papua, available on http://www.aldp-papua.com/noken-jati-diri-dan-identitas-orang-papua/ *Loc.Cit*, access on October 19,2016 at 17.05 pm
[10] See Berita Kompas: *KPU Papua Akan hapus system noken dalam pemilukada 2017*, available on http://regional.kompas.com/read/2016/03/12/17103251/KPU.Papua.akan.Hapus.Sistem.Noken.dalam.Pilkada.2017, access on October 18, 2016. At 11.30 am

mean that the government considers the Papuan are in capable using one man one vote model? Therefore, it is interesting to conduct research on the Existence of *Noken* Vote Model in Indonesian General Election System.

B. Research Question

Based on the background, it can be formulated a research problem that how is the Existence of *Noken* Vote Model in Indonesia General Election System?

C. Objective of Research

The objectives of the research is to collect data through library research on the existence of *noken* vote model in Indonesia general election system, then interview the relevant parties who were involved in mechanism of *noken* vote model and analyze the existence of *noken* vote model in Indonesia general election system and at the end the research proposes some recommendation for a better of existence of *noken* vote model in Indonesia general election system

D. Benefit of Research

The benefits of research are:

1. Scientific Benefits:

From scientific aspect, the research is expected to provide an academic discourse on issue of model *noken* vote in Indonesia general election,

spesifically the issue of mechanism of model *noken* vote in Indonesia General election

2. Development benefits:

   Development benefits for the community are to recommend some suggestions for a better existence of model *noken* vote in Indonesia general election and provide a clear knowledge of the process of democracy related to *noken* vote model.